IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WP(C).No. 32501 of 2007(T)

PETITIONER:

SUJATHA JANARDHANAN, AGED 67 YEARS,
W/O JANARDHANAN, SUJATHA NIVAS,
NEAR CANARA BANK, PALAKUNNU JUNCTION,
BECKAL P.O., KASARGODE.

BY ADV. SRI.E.D.GEORGE

RESPONDENTS:
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1. THE CHAIRMAN,
KERALA STATE HOUSING BOARD, TRIVANDRUM.

2. CHIEF REVENUE OFFICER,
KERALA STATE HOUSING BOARD,
TRIVANDRUM.

3. THE REGIONAL ENGINEER,
KERALA STATE HOUSING BOARD, CALICUT.

BY ADV. SRI.A.JAYASANKAR, SC KSHB, TVM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2007, HE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 32501 OF 2007 T
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Dated this the 13th day of December, 2007

J U D G M E N T

Petitioner is seeking a direction to the respondents to hand over the key of the flat to the petitioner. She also seeks an order directing the respondents to re-fix the liability, excluding default interest.

2. It is an admitted fact that the petitioner was alloted a flat on the basis of an agreement with the respondents. There is no controversy that default was committed. Thus, the situation was one, which entitled the respondents to resume possession of the flat. It is in pursuance to that contractual right that possession of the flat was resumed by the respondents and it is in this background that the petitioner is seeking an order to direct the respondents to hand over the key of the flat to the petitioner.

3. In view of the fact that the petitioner had committed default in paying the amount due to the Housing Board and as the agreement between the parties authorised the Board to take possession of the flat in the event of default, action of the Board in having resumed possession of the flat cannot be faulted.

4. Petitioner contends that default interest should be excluded when liability is fixed. This again is a matter of contract and therefore cannot be interfered by this court. Lastly, petitioner contends that she should be given the benefit of One Time Settlement Scheme. Here again the counsel for the Board points out that, as presently, there is no such OTS scheme in vogue and that they have sought approval of the Government of Kerala for introducing one. Now that there is no scheme in vogue, this court will not be justified in directing the respondents to extend the benefit of a non existing scheme to the petitioner. However the only clarification that can be given is, if a scheme is introduced by the Board, it will be open to the petitioner to apply to the benefit thereof, in which case, her request may be considered by the respondents in accordance with the rules.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp